

*Effective July 1, 2018*

**POLICIES AND PROCEDURES FOR  
APPOINTMENT AND PAYMENT OF COUNSEL  
IN FAMILY COURT CIVIL CASES**

**APPOINTMENTS (OTHER THAN ATTORNEYS UNDER CONTRACT)**

Each judge appointing private counsel to represent an indigent litigant in a civil case (other than attorneys under contract) must promptly send a copy of the appointing order to the Family Court shared mailbox

FC.Appointed.Attorneys@state.de.us. Each order of appointment must show the name of counsel, the name of the party being represented, a description of the nature of the representation and the reason the appointment is necessary, *e.g.* unavailability of all contract attorneys. The order must also clearly indicate that it is a civil case.

**COUNSEL FEES AND EXPENSES (OTHER THAN ATTORNEYS UNDER CONTRACT)**

The following procedures will apply to requests for payment for counsel fees and expenses for all appointed counsel (other than attorneys under contract) in civil cases in Family Court:

1. All attorneys appointed in such civil cases should be made aware of the rate at which they will be compensated for fees (not to exceed \$60 per hour) and at the time of their appointment should sign an agreement stating that they understand the rate and that only extraordinary expenses will be reimbursed. Routine, expected out-of-pocket administrative expenses will not be reimbursed.
2. Each judge who receives an application for the payment of counsel fees or for the reimbursement of extraordinary expenses in an amount equal to or less than \$2,000 may approve the request as long as the total request for payment of counsel fees and expenses in an individual case does not exceed \$2,000 per case. Once the \$2,000 threshold has been reached in a case, all requests for payment of counsel fees and expenses in excess of \$2,000 per case require the prior written approval of the Chief Judge of the Family Court. This applies to both counsel fees and any request for reimbursement of extraordinary out-of-pocket expenses.

3. The State Court Administrator has the authority to increase the threshold limit, with advance notice to the Family Court judges, in reasonable increments, based upon inflationary increases.
4. Each judge must forward an order authorizing payment, in conformity with FORM 647 – Order Authorizing Payment attached hereto, together with the billing and documentation to the Family Court shared mailbox FC\_AttorneySubmission@state.de.us. Orders authorizing payment for counsel fees or reimbursement of extraordinary expenses in excess of the \$2,000 threshold per case will not be processed without the written approval of the Chief Judge of the Family Court.
5. Applications for counsel fees and/or expenses may be submitted before completion of the representation. If applications for counsel fees are submitted before completion of the representation, each Family Court judge should track the amounts submitted for payment to ensure that the necessary approvals are sought when the cumulative total counsel fees and/or expenses for an individual case exceed \$2,000. Fiscal Services in Family Court will track the total payments in each case to confirm that the necessary approval from the Chief Judge of the Family Court is obtained prior to giving final approval and processing payments beyond \$2,000 per case.
6. Each approval for payment submitted must include a statement that the appointing judge concurs in the reasonableness of the time spent (at a rate not to exceed \$60 per hour) and the extraordinary expenses incurred. Only extraordinary out-of-pocket/administrative expenses of private attorneys are eligible for reimbursement.

#### **ANCILLARY SERVICES (ALL APPOINTED ATTORNEYS, INCLUDING CONTRACT ATTORNEYS)**

All requests from appointed counsel and contract attorneys for permission to obtain transcripts or medical, forensic, investigatory services, or other ancillary services in all civil cases in the Family Court should be reviewed and given **careful consideration** by the judge assigned to the case. Each judge to whom the request is made should review the request critically and only the most crucial services at a reasonable rate should be approved. If a less costly alternative to providing the necessary services is available, that option should be used. In cases where payment for ancillary services does, or is expected to, exceed \$2,000 total per case,

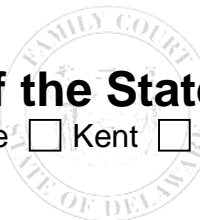
counsel must provide an explanation detailing the critical need for those services, what other alternatives have been explored, and why no other less expensive option is feasible.

The following procedures will apply to requests for payment for ancillary services for all civil cases (involving appointed and contract attorneys) in Family Court:

1. Counsel must obtain approval before expenses are incurred. Expenses incurred without a judge's pre-approval will not be reimbursed.
2. Each judge who pre-approves a request from appointed counsel for permission to obtain transcripts, or medical, forensic or investigatory services at State expense, shall promptly send a copy of the order to the Family Court shared mailbox FC\_AttorneySubmission@state.de.us. Each such order must show the name of requesting counsel, the name of the party being represented, a description of the nature of the representation, the name and address of the service provider, a maximum amount allowed for the service, and an explanation for the appointment consistent with the above.
3. Each judge who receives an application for payment for transcripts, or medical, forensic or investigatory services in an amount *within* the \$2,000 cap per case for indigent services may approve the request and forward an order authorizing payment in conformity with FORM "B" attached hereto, together with the billing and documentation to the Family Court shared mailbox FC\_AttorneySubmission@state.de.us.
4. Each judge who receives an application for payment for transcripts, or medical, forensic or investigatory services *in excess of* the \$2,000 cap per case for indigent services must obtain the written approval of the Chief Judge of the Family Court before issuing an "Order Authorizing Payment" form.
5. All approvals for payment submitted, regardless of amount, must include a statement that the judge approving payment concurs in the reasonableness of the expenses incurred and that the services are consistent with the original authorizing order.

# The Family Court of the State of Delaware

In and For ☐ New Castle ☐ Kent ☐ Sussex County



|               |   |              |       |
|---------------|---|--------------|-------|
| _____ ,       | ) | File No(s).: | _____ |
| _____ ,       | ) |              | _____ |
| _____ ,       | ) |              | _____ |
| Petitioner(s) | ) |              | _____ |
| v.            | ) | Petition     | _____ |
|               | ) | No(s).:      | _____ |
| _____ ,       | ) |              | _____ |
| _____ ,       | ) |              | _____ |
| _____         | ) |              | _____ |
| Respondent(s) |   |              |       |

## ORDER AUTHORIZING PAYMENT

For services rendered as a court-appointed attorney in representing \_\_\_\_\_  
in the above civil action,

### IT IS HEREBY ORDERED:

That the sum of: \_\_\_\_\_ be paid to:

Attorney: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

FED EIN No.: \_\_\_\_\_ Or SSN: \_\_\_\_\_

I concur in the reasonableness of the time spent (at a rate not to exceed \$60.00 per hour) and /or the extraordinary nature of the expenses incurred.

☐ The fees and expenses incurred in this case have exceeded \$2,000. Accordingly, approval is requested from the Chief Judge for payment.

|       |                      |
|-------|----------------------|
| _____ | _____                |
| Date  | Judge / Commissioner |

☐ Approved ☐ Not approved

|       |                               |
|-------|-------------------------------|
| _____ | _____                         |
| Date  | Chief Judge Michael K. Newell |

**FORM "B" - CIVIL**  
THE FAMILY COURT OF THE STATE OF DELAWARE  
IN AND FOR COUNTY

|    |   |              |
|----|---|--------------|
|    | ) |              |
|    | ) |              |
|    | ) |              |
| v. | ) | File No.     |
|    | ) | Petition No. |
|    | ) |              |
|    | ) |              |
|    | ) |              |

ORDER AUTHORIZING PAYMENT

For ancillary services (e.g. psychiatric, investigative, transcripts) upon prior application,

IT IS HEREBY ORDERED:

That the sum of \_\_\_\_\_ be paid to:

Service Provider: \_\_\_\_\_

Type of Service: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

FED EIN No.: \_\_\_\_\_ OR Soc. Sec. No.: \_\_\_\_\_

I concur in the reasonableness of the expenses incurred and that the services are consistent with the original authorizing order.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge

NOTE: This order may not authorize payment in excess of \$2,000 per case without specific prior approval of the Chief Judge of the Family Court.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chief Judge

CC: FC\_AttorneySubmission@state.de.us